U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[redacted]

Public Copy

FILE: [redacted] Office: Newark Date: MAR 3 1 2000

IN RE: Applicant: [redacted]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

IN BEHALF OF APPLICANT: Self-represented

Identifying [illegible] prevent clearly unwarranted invasion of personal privacy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of $110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the District Director, Newark, New Jersey, who certified his decision to the Associate Commissioner, Examinations, for review. The district director's decision will be affirmed.

The applicant is a native and citizen of Cuba who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act of November 2, 1966. This Act provides for the adjustment of status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959, and has been physically present in the United States for at least one year, to that of an alien lawfully admitted for permanent residence if the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence.

The district director determined that the applicant failed to submit additional documentation as had been requested. He further determined that the applicant is inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(I) and 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1182(a)(2)(A)(i)(I) and 1182(a)(2)(A)(i)(II). The district director, therefore, concluded that the applicant was ineligible for adjustment of status and denied the application.

The applicant has provided no statement or additional evidence on notice of certification.

The applicant appears to have legal counsel; however, counsel has failed to submit a Notice of Entry of Appearance as Attorney or Representative (Form G-28) in order to be recognized in these proceedings as the applicant's authorized representative. Therefore, the applicant is considered to be self-represented.

Section 212(a)(2) of the Act provides that aliens inadmissible and ineligible to receive visas and ineligible to be admitted to the United States include:

> (A)(i) Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of --
>
> (I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime, or
>
> (II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802).

The Federal Bureau of Investigation (FBI) report shows the applicant was arrested for the following:

1. Arrested on February 25, 1983 in Edgewater Park, New Jersey, for possession of weapon.

2. Arrested on September 1, 1988 in Cranbury, New Jersey, for (1) possession of heroin, (2) possession of cocaine, (3) heroin, and (4) cocaine.

3. Arrested on February 11, 1990 in Perth Amboy, New Jersey, for possession of weapon.

4. The FBI report further shows that as of December 4, 1997, a warrant for the arrest of the applicant is still outstanding for violation of probation.

On February 17, 1998, the applicant was requested to submit final court dispositions of all charges listed in the FBI report. In response, the applicant's counsel requests an additional 120 days in which to submit the court dispositions. Because it has been two years since the request for additional evidence and none has been provided, the district director determined that the applicant was inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(I) and 212(a)(2)(A)(i)(II) of the of the Act and denied the application.

A conviction of a crime involving moral turpitude may render the applicant inadmissible to the United States pursuant to section 212(a)(2)(A)(i)(I) of the Act. Likewise, a conviction of possession of a controlled substance may render the applicant inadmissible pursuant to section 212(a)(2)(A)(i)(II) of the Act. The record of proceeding, however, does not contain the court record of all his arrests. Such documents are necessary before a determination is made on the inadmissibility of the applicant.

However, the applicant has failed to submit the final court disposition of his arrests as had been requested by the district director. Again, on notice of certification he was offered an opportunity to submit evidence in opposition to the district director's findings. No evidence, however, has been entered into the record of proceeding.

The applicant is, therefore, ineligible for adjustment of status to permanent resident pursuant to section 1 of the Act of November 2, 1966. The decision of the district director to deny the application will be affirmed.

ORDER: The district director's decision is affirmed.